

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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DEBRA STARKS,

IN THE UNITED STATES DISTRICT COURT	FOR THE SOUTHERN DISTRICT OF NEW YORK
DOCUMENT	FILED - ELECTRONICALLY FILED
DCC #:	DATE FILED: 2/13/08

Plaintiff,

O R D E R

- against -

07 Civ. 6194 (NRB)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

WHEREAS this case was commenced on May 15, 2007 in the Eastern District of New York by the filing of a complaint seeking review of the decision of the Administrative Law Judge ("ALJ") pursuant to § 205(g) and/or § 1631(c)(3) of the Social Security Act, 42 U.S.C. § 405 (g) and/or § 1383(c)(3); and

WHEREAS this case was transferred to the Southern District of New York by Order dated May 30, 2007; and

WHEREAS the Commissioner of Social Security filed a motion to dismiss dated October 31, 2007 on the grounds that plaintiff failed to timely request review of the ALJ's decision, and that when she did seek such review, the Appeals Council dismissed her request as untimely, and therefore that plaintiff has failed to exhaust administrative remedies thus depriving this Court of subject matter jurisdiction; and

WHEREAS this Court did not, and still has not to date received any papers in opposition; and

WHEREAS upon contacting plaintiff's counsel, Craig J. Tortora Esq., he represented to the Court that he filed this action so as to preserve plaintiff's right to seek review the ALJ decision, but has not heard from plaintiff herself in months despite numerous efforts to contact her, and now seeks to withdraw as counsel in this case; and

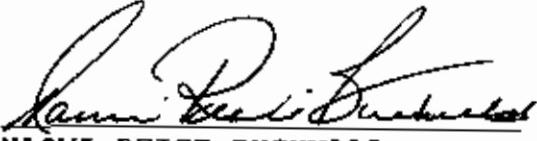
WHEREAS on January 24, 2008 Tortora moved to withdraw as counsel of record for plaintiff, and served a copy of the motion by mail to the plaintiff's last known address; and

WHEREAS no opposition to the motion to withdraw has been filed; it is hereby

ORDERED that Tortora's motion to withdraw is granted; and

ORDERED that in light of the lack of any opposition to the Commissioner's motion to dismiss, this case is dismissed without prejudice to restoring it to the Court's calendar within 30 days if plaintiff appears and so moves.

Dated: New York, New York
February 7, 2008


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Copies of the foregoing Order have been mailed on this date to the following:

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